

REMARKS

Submitted herewith is a request for a one month extension of time and the required fee.

The Examiner rejected claims 1, 2, and 15 under section 112 saying that it was unclear how the second distance recited in the claims was to be measured. Claims 1 and 15 were amended to recite how the second distance is to be measured. Claim 2 depends from claim 1 so the amendment to claim 1 cures the perceived problem in claim 2. The amendment to claims 1 and 15 overcomes the rejection under Section 112.

The Examiner also rejected claim 10 under Section 112 saying it was "unclear what the 'locking member' is in the context of the invention and how it functions relative to other aspects of the invention" and "if applicant intended for adhesive or the locking member to be used to secure the spacer." The locking member and adhesive are described at page 9, lines 3-10 of the specification. An example of a locking member is the projections 31 provided on either side of the back side to retain the spacer member in place. An example of the adhesive is double sided tape. The function of this locking means and the adhesive is fully described on page 9 of the specification. Since claims are to be read in the context of the specification it is clear to those skilled in the art what the locking member is and how it functions. Claim 10 says that the locking member or adhesive is "on" the back side or the spacer portion and "the locking member or adhesive is positioned to retain the spacer portion on the back side." The word retain is defined as "To keep in a fixed condition or place". see Funk & Wagnalls Standard College Dictionary. Consequently, the use of the word "retain" makes it clear that the adhesive or the locking member are used to secure the spacer portion to the back side. Reconsideration of the

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rejection of claim 10 in light of these comments and withdrawal of the rejection under section 112 is respectfully requested.

The Examiner has rejected claims 1, 2, 4, 6, 7 and 14 under Section 103(a) based upon the combination of U.S. Patent No. 3,907,118 to Pelavin in view of Published Application 2002/0144962 to Dettorre et al. This same combination with official notice that double sided tape and adhesives are known fasteners was cited to reject claims 3 and 10. The Examiner contends that the Pelavin reference discloses all elements of the claimed invention "except for teaching the spacer portion being detachable for reattachment, as claimed." However, Pelavin goes further than that and teaches that the thrust bearings, which is the structure identified as a spacer element by the Examiner, should not be removed. At column 3, lines 15 through 19, the reference states:

"The free ends of pintle pins 24 and 24' are capped with respective flange heads 25 and 25' to prevent withdrawal of respective thrust bearings 22 and 22' from the lugs 18 and 19 in which they are mounted."

The Dettorre reference discloses a Wall Hanger and Spacer for Skateboards and Scooters. The Examiner points out "Dettorre teaches such a detachable spacer 27 by means of a threaded member or snap-fitting engagement." The Dettorre reference contains two figures showing exploded views of his device. The device shown in Figure 1 is intended to hold skate boards whereas the hanger of Figure 2 is intended to hold scooters. At paragraph 0039 Dettorre et al. say:

"A spacer element 27 is between the wall and the panel 26 below the rail 30 to maintain the panel 26 in a vertical orientation."

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One stated objective of the invention disclosed by Dettorre et al. stated in paragraph 0019 as well as in the preamble to claim 1 is to provide a hanger and spacer for a skateboard or scooter for a wall mounting while maintaining the equipment away from contact with the wall. In order to accomplish that objective the spacer 27 must remain in place. Otherwise, the hooks could pivot allowing the skateboard and scooter to strike the wall.

In order for an invention to be obvious from the prior art there must be some teaching or motivation to modify the reference. W. L. Gore & Associates, Inc. v. Garlock, Inc., 220 USPQ 303, 311 (Fed. Cir. 1983). There is no teaching or motivation in either Dettorre or Pelavin to remove the spacer. Indeed, the references teach against their removal. In Pelavin the thrust bearings 22 and 22' identified by the Examiner as a spacer are attached to the lugs "to prevent withdrawal." The spacer element 27 in Dettorre is provided "to maintain the panel 26 in a vertical orientation." Such orientation is required to keep the skateboard or scooter from striking the wall.

While the Examiner may be correct that the spacer 26 of Dettorre or the thrust bearings of Pelavin could be removed that is not the test for obviousness. Rather, there must be some motivation in the references to make the modification to reach the claimed invention. No such motivation is present in either of the references. Accordingly, the rejected claims are patentable over this combination.

Claims 5, 15, 17 and 18 were rejected as unpatentable over the combination of Pelavin in view Dettorre and further in view of Gregory et al. U.S. Patent No. 5,515,981. Gregory discloses a Clothes Hanger Organizer having a hook which fits over a closet rod. The Examiner cited the reference as teaching "molding different parts adjacent one another for creating a desired end

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product." However, all the reference teaches is that the panel may be made of wood, plastic or metal material. In any event, there is no disclosure of an over-the-door hook having a removable spacer or any structure having a removable spacer. Consequently, these claims are patentable over the cited combination.

Finally, the Examiner has indicated claims 9, 12, 13 and 16 would be allowable if rewritten in independent form. Applicant has done that in the foregoing Amendment. A check in the amount of \$300.00 to cover the cost of the independent claims in excess of three is enclosed.

Reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,



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